Investigating Human Trafficking
Challenges, Lessons Learned, and Best Practices

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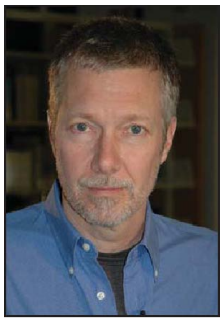
A rural taxi service called a Florida sheriff's department to report a violent assault. Men armed with pistols and a 4-foot metal pole brutally beat van drivers and smashed the windows of their vehicles; the assailants accused them of stealing their workers. One of the perpetrators, a harvest crew boss, pistol whipped the van service owner across the forehead and then kicked and beat him into unconsciousness. Police arrived in time to arrest the crew boss and two of his accomplices, but the others escaped. The responding officers did not know it, but they had encountered an element of a human trafficking operation.

Later, federal investigators found that the crew boss held workers in debt bondage, making them work 8 to 10 hours a day picking oranges and grapefruit. Forced to repay transportation, rent, and equipment "expenses," the victims could barely buy food each week. The U.S. Department of Justice (DOJ) found the case challenging; its investigators worked in unfamiliar and widespread rural settings while facing language barriers and limited economic resources. After nearly 2 years, the agency's efforts proved successful. The crew boss and his coconspirators were convicted of human trafficking-related charges.

Passed in October 2000, the Trafficking Victims Protection Act (TVPA) created new forced labor and sex trafficking criminal offenses for perpetrators, as well as protective measures for victims.[1] In the years 2001 to 2005, federal investigations of human trafficking quadrupled from 106 to 420, resulting in 95 prosecutions.[2] This laudable achievement reflects the resolute efforts of the U.S. criminal justice system. But, a great challenge still lies ahead. Of the estimated 14,500 to 17,500 people trafficked into the United States each year, only 1,000 have become liberated through the actions of law enforcement.[3]

The authors examined this issue, and a key guiding question drove their research: How can the investigations and subsequent prosecutions of traffickers be effectively increased? To address that question, the authors studied 12 cases of human trafficking from 1996 to 2002 to learn what worked best in the investigations that led to successful prosecutions and to identify the greatest challenges.[4] In those case studies, the authors interviewed 30 law enforcement and criminal justice professionals with experience investigating human trafficking to gain their recommendations for best practices. Out of that research, the authors present practical steps that federal, state, and local agencies can implement for effective trafficking investigations.



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GENERAL CONSIDERATIONS

First Response

Actions taken at the beginning of a trafficking investigation prove crucial. The successful identification of victims and the subsequent responses of investigators determine the speed, ease, and, ultimately, the success of prosecuting traffickers. As an important initial step, law enforcement agents should call DOJ's Office for Victims of Crime (OVC) to report the suspected case of trafficking.

As illustrated in the opening scenario, local law enforcement personnel may encounter people in trafficking situations first. Often, they respond to investigate and detain criminals and witnesses after receiving an alert from a nongovernmental organization (NGO) or victim service provider. The authors found that in most successfully prosecuted trafficking investigations, local police detained victims, prepared reports, and assessed local and state charges. Responding investigators should begin the trafficking investigation while notifying DOJ of the matter. One police detective advised, "As the preliminary investigator, a lot of times you have the opportunity of gathering information that 3 days later when this...goes to the federal authorities, they might not be able to go back and get it. So, you being the front line have the first crack at it...you really have to...do a good job that first time around."[5]

In most cases, however, NGOs and victim service providers or, perhaps, private citizens help trafficked persons before law enforcement gets involved. Typically, the intervener who assists the trafficking victim to freedom and safety responds first. At this stage, both detailed documentation of evidence and rapid subsequent response to mobilize federal investigators prove crucial. In cases where private citizens respond first, they may feel the need for urgent action but are unlikely to begin

assembling the documentation and evidence chain needed for subsequent prosecution. They more likely will call the police, an NGO, protective shelter home, or community organization. NGOs with an established record of assisting trafficking victims and working with law enforcement agencies are important resources throughout the investigation process.

Victim Stabilization

Human trafficking investigations require careful treatment of victims and witnesses, upon whose testimony the case depends. Congress designated the TVPA to facilitate assistance services for trafficking survivors so that they can cooperate with law enforcement in the investigation of these crimes. Investigating agencies do well to put victims in contact with an appropriate attorney and social service provider so that they can move quickly to apply for a "continued presence" (stay of deportation) or "T nonimmigrant visa" (or, simply, "T visa"). This procedure also requires the law enforcement organization to provide an endorsement letter as soon as possible in support of the application. The challenging process of interviewing the victim, collecting corroborating evidence, and investigating perpetrators becomes more effective when the victim gains continued presence and begins accessing care and protection from a service provider.

Subsequent Actions

A successful law enforcement intervention requires rapid, sustained response. Ideally, if appropriate, a federal investigator will interview victims within 24 hours of discovery. Regardless of which agencies become involved, the leadership of an aggressive prosecutor willing to pursue the case for months or even years proves important. The authors found that investigations that moved quickly into prosecution involved investigators working closely with DOJ attorneys, as well as following up every lead to uncover corroborating evidence.

After the initial interviews of suspected victims, witnesses, and, if possible, perpetrators, investigators begin collecting information and corroborating evidence to build the charges and the case. Investigation times varied in the authors' research from as short as 1 month to as long as 3 years and 7 months. The length of time of an overall case from discovery of the matter to when the perpetrators either pleaded or received sentencing, or the investigation was judged ongoing, varied from as short as 4 months to as long as nearly 6 years.

VICTIM AND WITNESS COOPERATION

Ultimately, the most successful results involved agents with experience in human trafficking cases. Such investigators show more sensitivity to the needs of the victims, know how best to handle them, and are aware of superior sources of information to corroborate evidence.

Not surprisingly, gaining the cooperation of victims as witnesses can prove challenging. Because of their distrust of police in their home countries, trafficking survivors usually fear U.S. law enforcement agents. Often, victims come from societies with corrupt authorities. Also, traffickers lie to them about police brutality and deportation; victims begin to believe that U.S. authorities will treat them as criminals, incarcerate them, or deport them. Overcoming this obstacle is important; as one FBI agent advised, "You can't manufacture evidence—witnesses have to go to trial. It was very difficult gaining the cooperation of the victims so they would testify."[6]

Also, human trafficking survivors often do not identify themselves as victims. Therefore, law enforcement agents may have difficulty detecting victims among detainees to separate them from perpetrators. As a result, investigators have treated trafficked persons as illegal immigrants or undocumented workers and prostitutes. Assigning such criminal identities can lead to incarceration and deportation of innocent victims. Ultimately, the investigating agents and prosecuting attorneys must gain their trust to muster cooperation.

Investigators and prosecutors can overcome the challenges of gaining victim and witness cooperation by showing compassion and making them feel comfortable. A veteran FBI human trafficking investigator advised, "I would be sympathetic, demonstrate concern, and demonstrate what I could do for them. I was trying to sell them on the fact that I was trying to make the bad guys pay and help them get justice. But, I had to be careful with the help I offered them. You can't make promises you can't keep. It is incumbent upon the investigator involved to do everything they can to overcome the victim's concerns. And, in the end, hope they have the gumption to do what's right—to testify...or...be willing to...."[7]

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AGENCY ROLES AND CHALLENGES

Human trafficking investigations require cooperation among numerous agencies and present many obstacles. As one investigator put it, "…the experience is very time consuming. You get one of these cases and...live with it for months as opposed to a case you can pick up and put down, like white-collar crimes. If you have a victim, you can't just put them down and deal with them later."[8] Investigators may find it difficult to maintain motivation. The challenge of investigating human trafficking with victims and witnesses, many of whom are foreign nationals, requires a specialized approach.

The dominant mission of U.S. Immigration and Customs Enforcement (ICE) agents creates challenges for them as well. In this regard, these investigators may find it difficult to differentiate victims from criminals. As one DOJ prosecutor cautioned, "ICE agents are trained to interview about an immigrant's status for deportation. That's not where you want to start on a slavery investigation."[9] ICE agents must carefully consider their questioning strategy to elicit information about captivity, forced work, coerced sexual acts, and abuse by perpetrators. These investigators may consider working closely with prosecutors to secure corroborating testimony from trafficking victims and witnesses. They also may consult with specialist NGOs that provide services and advocacy to trafficked persons.

As many cases of human trafficking occur in formal workplaces, such as factories, farms, and restaurants, the U.S. Department of Labor (DOL), when paired with other federal law enforcement agencies, can provide effective assistance in investigating and prosecuting traffickers. Most trafficking cases occur in low-wage sectors without much labor law compliance. DOL investigators bring experience and insight into what to look for and how to interview trafficked laborers.

EVIDENCE COLLECTION

Information Gathering

Provided investigators know where to look, they can identify the clues to a trafficking crime and locate the victims and perpetrators. traffickers use ordinary methods of commerce for activities that support their crimes, such as renting hotel rooms or trailers; making cell phone calls; and buying clothes, supplies, and food for victims. Reviewing such records could provide evidence needed to support allegations of trafficking. Other traditional investigative methods, such as surveillance, analysis of trash and mail, undercover operations, and reviews of wire transfer records, also can reveal pertinent information.

Through their research, the authors discovered that human trafficking cases often required investigators to work in rural settings unfamiliar to many of them, especially, of course, those accustomed to urban locations. Undeveloped areas require investigators to navigate long distances and maneuver among, mainly, immigrant workers. Even cases in cities require investigation in communities full of people that distrust law enforcement. Particular urban, ethnic neighborhoods that are socially and culturally insulated may prove very difficult for investigators to enter.

Organizations experienced in working with law enforcement agents can serve as an important resource during investigations in settings where trafficking occurs. The nature of these crimes—usually involving immigrants and a victim needing assistance—requires proper social and cultural orientation to effectively gather criminal intelligence and swiftly arrest perpetrators. Ethnic community groups or immigrants' and workers' rights NGOs can assist in gaining entry to closed communities and in accessing information from victims and witnesses. However, law enforcement agencies should seek only the assistance of organizations with a proven record of helping trafficking victims and collaborating with authorities in these investigations.

INTERVIEW CONSIDERATIONS

Assessment of Charges

Human trafficking cases may involve various criminal acts, requiring different charges[10] and, possibly, input from a number of agencies. In these instances, investigators should work together when interviewing victims. One prosecutor suggested, "First of all, if you go to trial, you want as few statements as possible from witnesses.... Ideally, you should have one recorded interview and share it with the other agencies. To do that, you need to interview the victim with one agent and have another recording so you don't get multiple interviews from different agents and then conflicting stories."[11]

Further, investigators can be more effective when they familiarize themselves with criminal charges outside their regular line of work—any that a trafficker may face. With that knowledge, investigators can identify as many potential charges as possible in the fewest interviews.

Challenges

Trafficking cases focus on the victim and, thus, rely on interviews as the fundamental source of evidence. Yet, the authors found that every law enforcement agent remarked on the great challenge of interviewing victims and witnesses. No matter how well the investigator or attorney develops trust with trafficked persons, victims may never tell their story in a single interview. Aside from the trauma of enslavement and abuse through trafficking, other sociological and psychological barriers impede victims during this process. These can include sociocultural difference, language, gender, and the investigator's experience and training.

Issues relating to gender can affect the ease in which interviewers can obtain information from victims. For instance, trafficked women (e.g., those used for domestic servitude or agricultural work) and children frequently face sexual abuse or violence. Females from some cultures may be reluctant to seek assistance in these cases because of the shame and stigmatization that might come from disclosing their experience. Gender issues also affect how trafficked men interact with law enforcement personnel and service providers assisting them. Males from some cultures, particularly those with a very rigid concept of

masculinity, may not want to admit their victimization or fear because they believe they will risk diminishing their masculine identity if they admit to losing control over their lives or their ability to fight back. To this end, men and women may be more willing to talk to someone of the same gender about the abuse they have suffered.

Investigation of trafficking commonly requires communication in languages other than English. Not surprisingly, investigators fluent in the victims' or witnesses' languages see more success in interviewing. This also saves the time and expense of hiring interpreters.

Additionally, agents and prosecutors should remain sensitive to cultural differences that create communication barriers between people that speak the same language but who have different levels of formal education and who use a different local idiom. The authors found that bilingual agents experienced in interviewing Spanish-speaking trafficking victims were more effective when also familiar with the culture of the victims and witnesses. As an advocate from an NGO pointed out, "It's not just a matter of being bilingual but also being able to know how to talk to people and ask questions in a way the witnesses can understand—not just in the phrasing of the questions but also in an order that makes sense to the witnesses."[12] A bilingual Hispanic U.S. Border Patrol agent experienced in interviewing trafficking victims offered practical advice, "One thing I learned when interviewing Guatemalans is that they think and listen in their indigenous dialect. You are speaking Spanish to them, they are processing this, and a lot of times what comes out is not what you are looking for...you have to...rephrase your questions so they will actually understand them and know where you are coming from. That's one of the things I think that most investigators are going to have to understand...to be very patient... because the dialects are different and their educational levels…. It's pretty much a word game. They don't understand your question, so you have to rephrase the same question maybe three or four times to arrive at the answer."[13]

Similarly, investigators will encounter challenges in cases involving children. Interviewing may prove difficult because these young victims may not know the words or have suffi cient language skills to express what has happened to them.

Sources of Help

The Office for Victims of Crime (OVC) serves as a valuable source of assistance. It cosponsors the toll-free Trafficking in Persons and Worker Exploitation Complaint

Line at 888-428-7581. Also, along with other organizations, such as Free the Slaves (826-324-FREE) and the Freedom Network/Safe Horizon (646-825-2227), the agency, through the Web site *http://www.ojp.usdoj. gov/ovc/help/tip.htm,* helps locate organizations with an established record of assisting with these incidents.

EVIDENCE CORROBORATION

To ensure prosecution of a case, agents must gather evidence to corroborate victims' statements. Investigations relying on single-victim testimony, such as domestic servitude cases, are particularly challenging; the exploitation is well hidden and difficult to prove. The concealed nature of these crimes necessitates collecting information, often fragmentary, that corroborates the victim's testimony. Few witnesses exist because the slavery occurs behind closed doors of private homes. For example, in one case involving a young Cameroonian woman, the prosecutor described the challenge of corroborating evidence in a "very victim-based" investigation, "You never want the jury to...judge one person's word against another's. Fortunately for us, in this case...a neighbor... saw the victim be struck once. He was able to corroborate her testimony. To get corroborating testimony and evidence, we dug up every corner of the neighborhood…."[14]

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In this case, federal agents subpoenaed maintenance employees from the apartment complex because they were the only witnesses who saw the victim working. Investigators also subpoenaed neighbors who noticed the victim and thought that she appeared school-age. The prosecutor even subpoenaed the records of the local elementary school to check if the victim was on the list of people allowed to pick up the employer's children, as she said the perpetrator required her to. Initially, the FBI agent and prosecutors were concerned that the case against the traffickers would not be strong enough to prosecute. The federal agents fi nally considered the case ready when they found connections to evidence of the trafficker's marriage and passport fraud.[15]

Cases wherein victims have escaped their traffickers and have likely fled the location or even the country pose challenges for investigators. Most trafficking survivors are immigrants with few economic resources and are relatively excluded from mainstream U.S. society. For that reason, escaped trafficking victims and witnesses can be difficult to locate and interview. A rural NGO assisting trafficked persons observed, "The biggest problem with working on these cases is catching the people who are all over the migrant farm-worker world—a world that's the hardest to understand and most difficult to locate people. They must be located by word of mouth. It's not as if you can just pick up the phone and call people or mail them a letter."[16]

Some of the best sources of information for corroborating victim and witness testimonies are the employers' own documents. Also, in many cases where perpetrators told victims they owed a debt, investigators found a record of that

purported debt. Sometimes, victims themselves kept similar records. This documentation often was essential to proving the debt-bondage element to the trafficking charges.

Corroborating evidence in poorly regulated or insufficiently monitored industries is difficult. An FBI agent on a case in which Eastern European women were forced to dance in strip clubs cited barriers to gaining documentation or corroborating evidence from club owners due to their "independent contracting" practices (of the dancers), not keeping employment records, and having obstructive attorneys. Investigators of trafficking cases in rural areas also had difficulty talking to witnesses working in the fields. Crew leaders often did not cooperate when agents or NGOs tried to interview workers as potential witnesses. Similarly, with forced prostitution cases in rural areas, lookouts spotted law enforcement agents far in advance of their arrival, and the traffickers had ample time to alert members of the operation and relocate victims.

ARRESTS AND LIBERATION

Once investigators have brought their evidence to the prosecutor, the decision will be made as to the feasibility of pursuing the case. In most instances, law enforcement officers will need to arrest the suspected trafficker, thus requiring a search warrant to raid a compound, brothel, or private home where perpetrators hold trafficking victims.

In most of the cases the authors studied, local law enforcement—often, the first responders—intervened or arrested an associate of the trafficking conspiracy prior to action by federal authorities (as in the case described at the beginning of this article). In some instances, the intervention was in response to a disturbance call

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that ended in no arrests. Other times, the police secured warrants against the traffickers and took action that resulted in the perpetrators' arrest, although the efforts did not result in shutting down the trafficking operation. Sadly, in several cases, traffickers eluded law enforcement's efforts to discover the operation.

CONCLUSION

The disturbing crime of human trafficking presents many hurdles for law enforcement. These challenging, time-consuming investigations require the efforts of different agencies in cooperation with each other. Agents investigating these crimes encounter many unique obstacles.

The authors drew from case studies and interviews of law enforcement and criminal justice professionals with experience investigating human trafficking to gain their recommendations for best practices and offer practical steps that federal, state, and local law enforcement agencies can implement to improve trafficking investigations. Investigators should become familiar with these techniques. By educating themselves and working together, agencies across the United States can effectively address these hideous crimes as they occur.

Endnotes

[1] Trafficking Victims Protection Act, Public Law 106-386 (October 28, 2000).

[2] U.S. Department of Justice, *Attorney General's Annual Report to Congress on*

U.S. Government Activities to Combat Trafficking in Persons, Fiscal Year 2005

(Washington, DC, June 2006), 13-15.

[3] U.S. Department of Health and Human Services, "HHS Announces 1000th Victim of Human Trafficking Certified"; retrieved from *http://www.acf.hhs.gov/ news/ press/2006/1000_traffi cking_ victims_certifi ed.htm*

[4] The authors based this article on their NIJ-funded research. The full report is titled ï¿½Traffi cking in Persons in the United States: A Report to the National Institute of Justiceï¿½ and is available through the National Criminal Justice Reference Service at http://www.ncjrs.gov.

[5] Chicago Police Department, Organized Crime Division, interview by the authors, November 2002, Chicago, IL.

[6] FBI special agent, interview by the authors, November 2002, Chicago, IL.

[7] Ibid.

[8] Ibid.

[9] DOJ Civil Rights Division attorney, interview by the authors, May 2003, Washington, DC.

[10] In addition to violations of the TVPA, other committed offenses have at one time or another contributed to the prosecution of human traffi cking cases. These have included, for example, conspiracy against civil rights, extortionate collection of extensions of credit, kidnapping, alien smuggling, and harboring of illegal aliens.

[11]DOJ Civil Rights Division attorney, interview by the authors, May 2003, Washington, DC.

[12] NGO, interview by the authors, March 2003, Immokalee, FL.

[13] Supra note 9.

[14] AUSA, interview by the authors, July 2002, Greenbelt, MD.

[15] Ibid. 16 NGO, interview by the authors, March 2003, Immokalee, FL.